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8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Accusation Against: Case No. 2009-206
12	ELVIA CECILIA KIRKPATRICK 1140 Old Canyon Drive ACCUSATION
13	Hacienda Heights, CA 91745
14	Registered Nursing License No. 396358
15	Respondent.
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17	Complainant alleges:
18	<u>PARTIES</u>
19	1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20	solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21	Department of Consumer Affairs.
22	2. On or about March 31, 1986, the Board of Registered Nursing (Board)
23	issued Registered Nursing License No. 396358 to Elvia Cecilia Kirkpatrick (Respondent). The
24	Registered Nursing License was in full force and effect at all times relevant to the charges
25	brought herein. It expired on June 30, 2007, and has not been renewed.
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JURISDICTION

 This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 5. Section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct . . . "
- 6. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license."
- 7. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

COST RECOVERY

8. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

- 9. Respondent's license is subject to disciplinary action under section 2761, subdivision (a), and section 2762, subdivision (b), as a result of Respondent's use of alcohol in a manner dangerous to herself and others.
- 10. In or about late 2006 and early 2007, while Respondent was employed as a registered nurse at Kaiser Permanente in the East Los Angeles Medical Offices in Los Angeles, California (Kaiser Permanente), the Kaiser Permanente Ambulatory Care Manager received approximately three reports that Respondent had been arriving to work intoxicated and smelling of alcohol. Respondent was sent home on each occasion.
- brought Respondent into her office and told her that staff had reported that she was coming to work intoxicated. After the manager told Respondent that she could not come to work drunk, Respondent replied, "I don't think I can stop." Respondent went on to state that she used alcohol to cope with her cancer and cancer treatment. The manager told Respondent that she needed to self-report to the Registered Nurse Diversion Program. Respondent failed to do so.
- Respondent with the Board, Respondent was enrolled in the MAXIMUS Diversion Program, the Board's diversion program for alcohol and drug abuse (diversion program). During the intake process, Respondent admitted to having abused alcohol with developing dependence since 2001. While in the diversion program, Respondent relapsed twice. On June 27, 2007, she tested positive for ethyl glucuronide. She subsequently reported to the diversion program staff that she had another relapse on July 4, 2007. She then missed appointments for body fluid testing

1	scheduled for July 5, 2007, and July 23, 2007.
2	13. On or about September 14, 2007, Respondent was terminated from the
3	Board's diversion program for presenting a public risk and for failing to comply with the
4	provisions of the rehabilitation plan as evidenced by her two relapses on June 27, 2007, and July
5	4, 2007. She also failed to appear at a scheduled program meeting on September 14, 2007,
6	missed numerous drug tests, failed to attend the required 12-step meetings, failed to obtain a
7	sponsor, and failed to submit the required reports to the diversion program.
8	<u>PRAYER</u>
9	WHEREFORE, Complainant requests that a hearing be held on the matters herein
10	alleged, and that following the hearing, the Board issue a decision:
1	1. Revoking or suspending Registered Nursing License No. 396358, issued to
12	Respondent;
13	2. Ordering Respondent to pay the Board the reasonable costs of the
14	investigation and enforcement of this case, pursuant to section 125.3;
15	3. Taking such other and further action as deemed necessary and proper.
16	DATED: 3/23/09
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8	RUTH ANN TERRY MPH RN
19	Executive Officer Board of Registered Nursing
20	Department of Consumer Affairs State of California
21	Complainant
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